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**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**[Docket No. FR-5696-N-15]**

**Additional Clarifying Guidance, Waivers, and Alternative Requirements for Grantees  
in Receipt of Community Development Block Grant Disaster Recovery Funds  
Under the Disaster Relief Appropriations Act, 2013**

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Notice.

**SUMMARY:** This Notice provides a waiver and alternative requirement for the State of New Jersey's tenant-based rental assistance program funded through its Community Development Block Grant disaster recovery (CDBG-DR) grant pursuant to the Disaster Relief Appropriations Act, 2013 (Pub. L. 113-2) (the Appropriations Act). In addition, this Notice provides an alternative requirement for Major (Covered) Infrastructure Projects funded by grantees receiving an allocation for disasters occurring in 2013 under the Appropriations Act. This Notice also modifies a requirement for Disaster Recovery Grant Reporting System (DRGR) reporting requirements for all grantees receiving an allocation of CDBG-DR grants pursuant to the Appropriations Act.

**DATES:** Effective Date: **[Insert date 5 days from date of publication in the FEDERAL REGISTER.]**

**FOR FURTHER INFORMATION CONTACT:** Stanley Gimont, Director, Office of Block Grant Assistance, Department of Housing and Urban Development, 451 7th Street, SW, Room 7286, Washington, DC 20410, telephone number 202-708-3587. Persons with hearing or speech impairments may access this number via TTY by calling the Federal Relay Service at 800-877-8339. Facsimile inquiries may be sent to Mr. Gimont at 202-401-2044. (Except for the "800" number, these telephone numbers are not toll-free.) E-mail inquiries may be sent to [disaster\\_recovery@hud.gov](mailto:disaster_recovery@hud.gov).

## **SUPPLEMENTARY INFORMATION:**

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### **I. Background**

The Appropriations Act made available \$16 billion in Community Development Block Grant disaster recovery (CDBG-DR) funds for necessary expenses related to disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in the most impacted and distressed areas resulting from a major disaster declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974 (42 U.S.C. 5121 et. seq.) (Stafford Act), due to Hurricane Sandy and other eligible events in calendar years 2011, 2012, and 2013. On March 1, 2013, the President issued a sequestration order pursuant to Section 251A of the Balanced Budget and Emergency Deficit Control Act, as amended (2 U.S.C. 901a), and reduced the amount of funding for CDBG-DR grants under the Appropriations Act to \$15.18

billion. To date, a total of \$15.18 billion has been allocated or set aside: \$13 billion in response to Hurricane Sandy, \$514 million in response to disasters occurring in 2011 or 2012, \$655 million in response to 2013 disasters, and \$1 billion set aside for the National Disaster Resilience Competition.

This Notice specifies a waiver and modifies requirements for grantees in receipt of allocations under the Appropriations Act, which are described within the **Federal Register** Notices published by the Department on March 5, 2013 (78 FR 14329), April 19, 2013 (78 FR 23578), May 29, 2013 (78 FR 32262), August 2, 2013 (78 FR 46999), November 18, 2013 (78 FR 69104), December 16, 2013 (78 FR 76154), March 27, 2014 (79 FR 17173), June 3, 2014 (79 FR 31964), July 11, 2014 (79 FR 40133), October 7, 2014 (79 FR 60490), October 16, 2014 (79 FR 62182), and January 8, 2015 (80 FR 1039), referred to collectively in this Notice as the “Prior Notices.” The requirements of the Prior Notices continue to apply, except as modified by this Notice.<sup>1</sup>

## **II. Applicable Rules, Statutes, Waivers, and Alternative Requirements**

The Appropriations Act authorizes the Secretary to waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with HUD’s obligation or use by the recipient of these funds (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment). Waivers and alternative requirements are based upon a determination by the Secretary that good cause exists and that the waiver or alternative requirement is not inconsistent with the overall purposes of Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) (HCD Act). Regulatory waiver authority is also provided by 24 CFR 5.110, 91.600, and 570.5.

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<sup>1</sup> Links to the Prior Notices, the text of the Appropriations Act, and additional guidance prepared by the Department for CDBG–DR grants, are available on the HUD Exchange Web site:  
<https://www.hudexchange.info/cdbg-dr/cdbg-dr-laws-regulations-and-federal-register-notices/>

For the waiver and alternative requirement described in this Notice, the Secretary has determined that good cause exists and the waiver is not inconsistent with the overall purpose of the HCD Act. Grantees may request waivers and alternative requirements from the Department as needed to address specific needs related to their recovery activities. Under the requirements of the Appropriations Act, waivers must be published in the **Federal Register** no later than five days before the effective date of such waiver.

*1. Tenant-based rental assistance (State of New Jersey only).* The State of New Jersey previously requested a waiver of 42 U.S.C. 5305(a) in order to provide tenant-based rental assistance to households impacted by disasters eligible under the Appropriations Act, and the Department granted this waiver in the **Federal Register** Notice published on July 11, 2014 (79 FR 40134). This Notice replaces the waiver in the Notice published on July 11, 2014, in section II.3 and increases the amount of funding for this activity by providing an additional \$15 million of CDBG-DR funds for tenant- based rental assistance, increasing the amount covered by the waiver from \$17 million to \$32 million.

This waiver makes eligible up to \$32 million of CDBG-DR funds to be used for rental assistance, utility payments and, if necessary, rental costs (i.e., security deposits and utility deposits). This assistance may be provided on behalf of beneficiaries for a period of up to two years. The State justified a longer term of assistance in order to meet the housing needs of vulnerable populations displaced by Hurricane Sandy until construction of affordable rental units is completed and those units become available.

On May 30, 2014, the State entered into a Voluntary Compliance Agreement (VCA) with the Department in response to a complaint filed by civil rights and fair housing organizations

regarding the State's administration of its CDBG-DR funded recovery programs. The VCA commits the State to providing an additional \$15 million of CDBG-DR funds for tenant-based rental assistance, increasing the amount covered by the initial waiver from \$17 million to \$32 million.

Thousands of households in New Jersey remain displaced and continue to need housing at a time when the State's housing stock has not fully recovered from the disaster. The decrease in the housing supply placed upward pressure on housing costs, making housing less affordable for households already strained by hurricane-related expenses. By increasing the amount of funding available for tenant-based rental assistance, the State will be able to assist more households and to minimize the incidence of homelessness by providing re-housing and rental assistance. Additionally, the State will link the assisted beneficiaries with services that can help them become stable and self-sufficient. Throughout the rental assistance period, assisted households will receive referrals to available long-term units, as well as housing counseling.

After reviewing the State's request, and in accordance with the VCA, HUD is waiving 42 U.S.C 5305(a) to make eligible an additional \$15 million of CDBG-DR funds for rental assistance and utility payments paid for up to two years on behalf of homeless and at-risk low- and moderate-income households displaced by Hurricane Sandy when such assistance or payments are part of a homeless prevention or rapid re-housing program or activity. The State's tenant-based rental assistance must be funded through its Supportive Services program, limited to payments on behalf of beneficiaries of that program as described in the State's approved Action Plan, and must not be tied to HUD's Section 8 program assistance. This waiver permits the State to review and approve applications for tenant-based rental assistance on behalf of beneficiaries

from January 1, 2014 to January 1, 2016, and to provide rental assistance on behalf of approved applicants for up to 24 months, but in no case may assistance be provided on behalf of a beneficiary after January 1, 2018. The additional funds provided for the State's tenant-based rental assistance program through this waiver are subject to all requirements in the Notice published on July 11, 2014 (79 FR 40133) as well as the requirements of the VCA and any subsequent amendments to the VCA.

*2. Identification/Description of Covered Projects (2013 Disaster Grantees only).* In the **Federal Register** Notice published on October 16, 2014 (79 FR 62182), the Department modified requirements for Covered Projects implemented by Hurricane Sandy grantees by stating that grantees need only provide an estimate of the total project cost and CDBG-DR contributions, instead of providing the exact amount of funding. The Department is extending this flexibility to Covered Projects held to the requirements of the Notice published on June 3, 2014 (79 FR 31964). For any Covered Project held to the requirements of that Notice, Section V.3.g.1 ("Action Plan for Disaster Recovery waiver and alternative requirement—Infrastructure Programs and Projects, Additional Requirements for Major Infrastructure Projects, Identification/Description"), is modified to require: A description of the Covered Project, including: total project cost estimate (illustrating both the CDBG-DR award as well as other federal resources for the project, such as funding provided by the Department of Transportation or FEMA), CDBG eligibility (i.e., a citation to the HCD Act, applicable **Federal Register** notice, or a CDBG regulation), how it will meet a national objective, and the project's connection to Hurricane Sandy or other disasters cited in this Notice. The Department recognizes that grantees often finance large scale infrastructure projects by leveraging several sources of funds that may shift over time. Therefore, the Department may elect to approve

projects based on estimates of total project cost and other funding sources as well as the CDBG-DR contribution amount.

Grantees are expected to provide the best estimates available and the expected timeline for determining the exact costs. Grantees must submit an Action Plan Amendment to reflect any material adjustments to the cost estimate. Where an adjustment of the CDBG-DR contribution to a Covered Project triggers the substantial amendment criteria described in the March 5, 2013 Notice (78 FR 14329) at Section VI.A.3.a. by exceeding the \$1 million threshold, grantees must submit a Substantial Action Plan Amendment subject to the requirements of that Notice, which requires no less than 7 calendar days to solicit public comment. All Covered Projects are subject to the 30-day comment period and public hearing required by the July 3, 2014, Notice (79 FR 31964). However, HUD will consider resubmissions of Covered Projects that have fulfilled the public review requirements and were submitted to HUD prior to the effective date of this Notice if they are revised only in accordance with the amended description requirements. Such resubmissions are subject to non-substantial Action Plan Amendment requirements.

3. Reporting of Responsible Organizations in DRGR (all P.L. 113-2 grantees). In order to draw CDBG-DR funds, grantees must enter an Action Plan into DRGR that includes all activities to be funded. DRGR requires that at least one Primary Responsible Organization be entered for each activity, and grantees may choose to add ancillary Responsible Organizations to an activity. A Dun and Bradstreet Data Universal Numbering System (DUNS) number must be entered for each Responsible Organization. The March 5, 2013 Notice (78 FR 14329) required grantees to enter a DUNS number into the system for any entity carrying out a CDBG-DR funded activity, including the grantee, recipient(s) and subrecipient(s), contractor(s) and developers carrying out a CDBG-DR activity. The language describing DRGR reporting requirements was later revised in

the July 11, 2014 Notice (79 FR 40134) to exclude requirements for identifying contracts above \$25,000. This Notice, however, did not modify requirements for entering Responsible Organizations or DUNS numbers. To reduce the reporting burden on grantees, paragraph II.1.a. at 79 FR 40134 is amended to require that grantees only enter a DUNS number for the Responsible Organization or Organizations associated with an activity –with the understanding that only a single primary Responsible Organization is required to be identified within grantee DRGR Action Plans– and now reads as follows:

“The Action Plan must also be entered into the DRGR system so that the grantee is able to draw its CDBG–DR funds. The grantee may enter activities into DRGR before or after submission of the Action Plan to HUD. To enter an activity into the DRGR system, the grantee must know the activity type, national objective, and the organization or organizations that will be responsible for the activity. In addition, a Data Universal Numbering System (DUNS) number must be entered into the system for each entity designated as a Responsible Organization for the activity.”

Grantees are reminded that this modification applies only to requirements for DRGR DUNS number reporting and does not change any other Federal DUNS number reporting requirements.

### **III. Catalog of Federal Domestic Assistance**

The Catalog of Federal Domestic Assistance number for the disaster recovery grants under this Notice is as follows: 14.269.

### **IV. Finding of No Significant Impact**

A Finding of No Significant Impact (FONSI) with respect to the environment has been made in accordance with HUD regulations at [24 CFR part 50](#), which implement section



102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The FONSI is available for public inspection between 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410–0500. Due to security measures at the HUD Headquarters building, an advance appointment to review the docket file must be scheduled by calling the Regulations Division at 202–708–3055 (this is not a toll-free number). Hearing or speech-impaired individuals may access this number through TTY by calling the toll-free Federal Relay Service at 800–877–8339.

Date: March 27, 2015

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Ann Marie Oliva  
Deputy Assistant Secretary for Special Needs  
Community Planning and Development

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